

REMARKS

The Final Office Action mailed May 13, 2009 has been reviewed and carefully considered. Entry of this Amendment and reconsideration of the above-identified application, as amended, in view of the following remarks, is respectfully requested

Claims 1-18 are pending and stand rejected.

Claims 1, 17, and 18 are independent claims.

Claims 1 and 17 have been amended. Claims 5, 6 and 18 have been cancelled.

Claim 17 stands rejected under 35 USC 112, first paragraph as failing to comply with the enabling requirement. Claims 1, 6, 7 and 12 stand rejected under 35 USC 112 for being indefinite. Claims 1-18 stand rejected under 35 USC 103(a) as being unpatentable over Hermann (EP no. 1024626) in view of Lewis (USP no. 6,213, 391).

With regard to the rejection of the claim 17 under 35 USC 112, first paragraph, applicant respectfully disagrees with and explicitly traverses the rejection of the claims. However, in the interest of advancing the prosecution of this application, applicant has elected to amend the claim to refer to the inputting of a characteristic to create a key record that is worldwide unambiguous. No new matter has been entered. Support for the amendment may be found at least on page 12, lines 24-16.

With regard to the rejection of claims 1, 6, 7 and 12, applicant respectfully disagrees with and explicitly traverses the rejection of the claims.

Claim 1 refers to a "key record that is worldwide unambiguous" in line 4. Thereafter, the term "worldwide unambiguous key record" is used in the claim to express the nature of the key record. Although the term "key record that is worldwide unambiguous" could be used in the claims, the use of this term would render the claim language overly complex and cumbersome. According, the term "worldwide unambiguous key record" is believed to be a more concise form of the term "key record that is worldwide unambiguous" and, thus, renders the subject matter claimed in better form.

Accordingly, applicant submits that the reason for the rejection has been overcome, without amendment to the claims. Applicant respectfully requests that the rejection be withdrawn.

With regard to the rejection of claims 1-18 under 35 USC 103(a) as being unpatentable over Hermann in view of Lewis, applicant respectfully disagrees with the reason for the rejection and explicitly traverses the rejection of the claims.

However, in order to advance the prosecution of this matter, independent claims 1 and 17 have been amended to further recite the portable unit including a transmission unit and "means for erasing said key record after an occurrence of one of, said information transmission and a predetermined time interval" and initiating a short range transmission when a received signal energy exceeds a predetermined voltage level. No new matter has been added. Support for the amendment may be found at least on claim 5 and page 13, lines 2-5 and in claim 6, Figure 2 and page 14, lines 8-16.

In rejecting the claims, the Office Action refers to Hermann for disclosing the elements recited, for example, in claim 1 except for the element "where at least part of said key record is provided by a user to create a key record that is worldwide unambiguous" and refers to Lewis (col. 12, lines 25-40) for teaching that this feature was well known in the art at the time the invention was made and that it would have been an obvious modification of the system disclosed by Hermann to introduce the teaching of Lewis. (see OA, page 5).

Hermann discloses a method for exchanging information in a networked pervasive environment, wherein an authenticated and secure session can be achieved. Hermann discloses the initiation of a unidirectional wireless communication channel between a first device and a remote second device, whereby a sequence via the unidirectional wireless communication from the first device to the remote second device is sent in order to furnish the remote second device with encryption information. An encrypted response is sent, via a wireless broadcast medium, to the first device using the encryption information. More specifically, Hermann discloses the user sending from the first device a sequence that comprises an initiating token that contains a public key of the first device

and a randomly chosen nonce. The second device responds to the received token by sending a public-key token back to the first device. The public key token created by the second system and sent back to the first device contains the concatenation of the public key of the second device and the received nonce and is encrypted using the public key of the first device. The first device decrypts the received information from the second device and transmits a communication parameter token back to the second device. (see para. 0047).

Hermann, thus, discloses the use of a well-known public/private key system to exchange encryption information between devices. Hermann fails to provide any information regarding how the public/private key is established and specifically fails to disclose that a part of the key record is provided by the user to create a key record that is worldwide unambiguous, as is recited in the claims.

Lewis discloses a portable identification system for storing electronic data, a verifying means for determining user authorization wherein the verifying means receives at least one data from at least one biometric or other distinctive characteristics of a user and generating an identification profile for each user, wherein the identification profile is determined from the input data and a code generator for generating an access code based upon the identification profile.

Assuming that the identification profile of Lewis may be incorporated into the teaching of Hermann, then it would appear that the resultant device would provide a system wherein the first device would transmit an initiating token that contains a public key of the first device and a randomly chosen nonce, which would now be the identification profile of Lewis. The second device responds to the received token by sending a public-key token back to the first device. The public key token created by the second system and sent back to the first device contains the concatenation of the public key of the second device and the received nonce (i.e., identification profile) and is encrypted using the public key of the first device. The first device decrypts the received information from the second device and transmits a communication parameter token back to the second device, using the public key of the second device. The identification profile of the user is no longer used.

Thus, assuming the nonce of Hermann is now the identification profile of Lewis, this information would only be necessary to ensure the public key of the second device is provided to the first device.

However, this system of Hermann and Lewis would fail to disclose the claim element of "passing on the worldwide unambiguous key record or a part of the worldwide unambiguous key record to a second component.".

Although the Office Action refers to para. 0046 for teaching this claim element, the reference to the first and second devices in para. 0046 is not comparable to the second component recited in the claims. The first and second devices in para 0046 refer to the two devices in communication with each other (i.e., portable unit and receiving unit), while the second component in the instant application refers to a device different than the first portable unit and the receiving unit.

Hence, contrary to the position taken in the Office Action, the combination of Hermann and Lewis fails to disclose a material element recited in the claims.

Notwithstanding the argument above, the claims have been amended to explicitly recite the short range nature of the transmission and a criterion for initiating such short range transmission. The claims have also been amended to recite a means for erasing the key record after a known condition has occurred.

Neither Hermann nor Lewis provide any teaching regarding short range transmission or the transmission when a receiving signal energy is above a predetermined voltage level or any means for erasing the key record after one of a transmission or a predetermined time, as is now recited in the claims.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

In this case, the combination of Hermann and Lewis cannot render obvious the subject matter recited in the independent claims, as the device resultant from the

combination of Hermann and Lewis fails to disclose a material element recited in the claims.

With regard to the rejection of the remaining claims, these claims depend from independent claim 1, and, hence, these claims are not rendered obvious by the combination of Hermann and Lewis for at least their dependency upon an allowable base claim.

For the amendments made to the claims, applicant submits that the all of the rejections have been overcome and respectfully requests that the rejection be withdrawn.

For all the foregoing reasons, it is respectfully submitted that all the claims are in allowable form and the issuance of a Notice of Allowance is respectfully requested.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or point of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action are conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has elected to cancel claims 5, 6 and 18 solely to expedite the prosecution of this matter. Applicant expressly reserves the right to re-prosecute the subject matter recited in the claims prior to this Amendment in one or more continuing application.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at the telephone given below.

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,

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